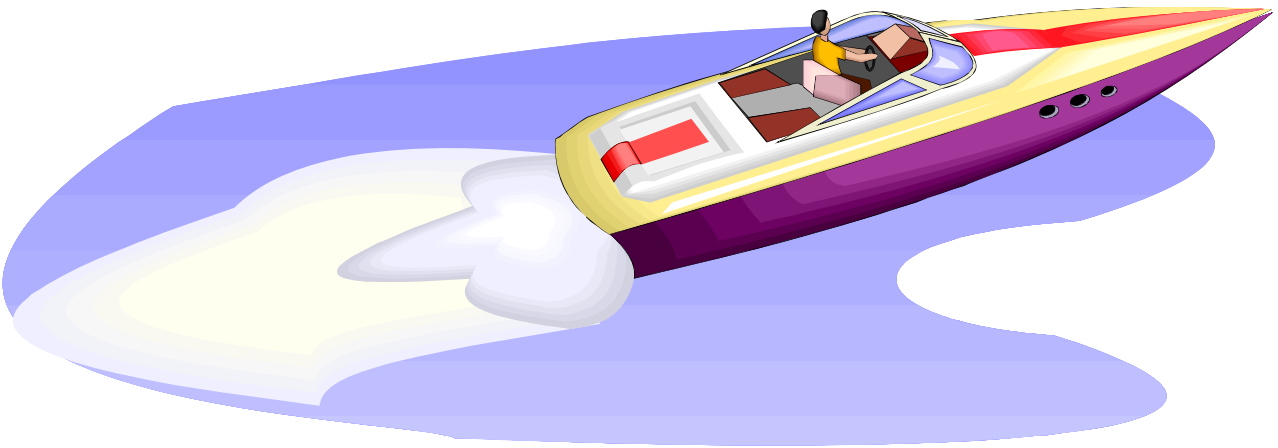


United States Bankruptcy Court for the District of Maryland



Debtor Assistance Manual



**Helping Pro Se Debtors
Navigate Through Bankruptcy**

Updated November 2006

ACKNOWLEDGMENT

The goal of this Debtor's Assistance Manual is to provide a resource of information for debtors and prospective debtors of the often complex bankruptcy process. While having the benefit of legal counsel in any matter of law is preferable, for some this advantage may not be economically feasible. This manual is not a substitute for legal advice as each individual's circumstances are unique. All parties in bankruptcy matters are urged to seek legal counsel. It is hoped that the information contained herein will assist users in making good decisions.

This manual is the result of many hours of research and editing by two members of the Clerk's Office; Diane Hydovitz, program analyst in Baltimore and Yvette Wilson, case administrator for our Greenbelt office. Additional contributions were made by the Bankruptcy Judges Paul Mannes and Wendelin Lipp. Valuable comments and suggestions were also incorporated from the Chapter 13 Trustees, the Bankruptcy Bar Association for the District of Maryland and the Consumer Section of the Maryland State Bar Association.

MARK D. SAMMONS
CLERK OF COURT
December 29, 2006

Debtor Assistance Manual

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NOTE: When items are shown underlined in blue, that indicates a Hyperlink. When you click on a hyperlink with your mouse, it will take you to another location within the document or to another website where there is related information.

To return to where you were before you clicked on the hyperlink:

- if you move to another location within the document, click on the green circle containing the left-pointing arrow on the toolbar at the bottom-middle of the page you are viewing.
- if an internet website opens up, when you are done viewing the website, close it by clicking on the X in the upper right-hand corner of the page. This document remains open behind the website, so once the website closes, this document will be visible on your screen once again.

This manual, prepared by the Clerk's Office of the U.S. Bankruptcy Court for the District of Maryland, is designed to assist people who are considering filing a bankruptcy case or who have already filed, but who are not represented by an attorney. It addresses the chapters most likely to be filed by individuals: Chapters 7 and 13.

Although individuals may represent themselves and file for bankruptcy without an attorney (known as Pro Se debtors), the bankruptcy process is complicated and confusing. Neither court staff nor Trustee staff can give legal advice. Also, individuals who represent themselves are still responsible for knowing the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for this District. Missing a deadline, failing to perform a required task, or failing to respond properly to a pleading or court order could result in the dismissal of the bankruptcy case, denial of a discharge, or losing property.

I. Legal Resources

We recommend that people considering bankruptcy seek the advice of an attorney. If you can not afford an attorney, legal help may be available to you free of charge if you meet certain criteria. The following are organizations you may contact to inquire about affordable legal representation or free legal assistance.

Allegany County Law Foundation Serving low income and senior citizens in Allegany County	301-722-3390
Lawyer Referral Service Baltimore County Bar Association www.bcba.org/community_resources	410-337-9100
Legal Advice Line www.legaladviceonline.com	888-367-5252
Legal Aid Bureau, Inc. (Call to find one of the 13 locations nearest you) www.mdlab.org	410-951-7777
Pro Bono Resource Center of Maryland A MSBA/Legal Services Partnership	410-837-9379 800-492-1964
Maryland Volunteer Lawyers Service Does not serve Prince Georges, Montgomery or Allegany counties www.mvlslaw.org	410-547-6537 or 800-510-0050
Montgomery County Pro Bono Program	301-424-7652
Law Foundation of Prince Georges County www.lawfoundationpg.org	301-864-8353

II. Bankruptcy Review

As stated earlier, this manual addresses only those chapters most likely to be filed by individuals. Bankruptcy cases are subject to federal laws contained in Title 11 of the United States Code (Bankruptcy Code). Procedural aspects of bankruptcy cases are governed by the Federal Rules of Bankruptcy Procedure (Bankruptcy Rules). Additionally, the District of Maryland has [Local Rules](#) of practice. The Bankruptcy Code and Rules may be accessed at public libraries and online at:

Title 11 U.S. Code straylight.law.cornell.edu/uscode/html/uscode11/usc_sup_01_11.html
Bankruptcy Rules www.uscourts.gov/rules/index.html under Rules and Forms in Effect

Brief summaries of chapters 7 and 13 follow. For more in-depth information regarding each chapter, follow this link to the [Bankruptcy Basics](#) pamphlet, a public information series presented by the Administrative Office of the United States Courts. For more specific information regarding filing for bankruptcy in the District of Maryland, follow the links below for each chapter.

Chapter 7 of the United States Bankruptcy Code is known as the "liquidation" chapter. It is used primarily by individuals to free themselves of debt. The Court applies a "[means test](#)", comparing the debtor's monthly income, expenses and certain consumer debts to the state median to determine whether filing a Chapter 7 is abusive. Unless the debtor overcomes the presumption of abuse, the Court may convert or dismiss the Chapter 7 case (11 U.S.C. §707 (b)(1)). In a Chapter 7 bankruptcy case, the bankruptcy [trustee](#) takes possession of and sells the debtor's property that is not claimed as [exempt property](#). Distributions to creditors are made from the liquidation of such property in accordance with the Bankruptcy Code. Once certain deadlines have passed in a Chapter 7 case, the debtors receive a [discharge](#) of their remaining debt, within the guidelines of the Bankruptcy Code. Certain debts may not be discharged.

Chapter 12 is known as the "family farmer or fisherman" chapter. It allows farmers or fishermen facing financial hardships to reorganize their debts and spread repayments to creditors over a period of three to five years, thereby allowing them to keep their farms. As in a Chapter 13 case, debtors formulate a plan by which creditors will be repaid through a trustee.

Chapter 13 of the United States Bankruptcy Code is commonly called the "wage earner" chapter. It is appropriate for people who have an income from any source and wish to pay back their debts, but are not able to do so currently. Chapter 13 enables financially distressed debtors to spread payments to creditors over a three to five year period by developing a [plan](#), which is overseen by the [trustee](#). Once payments under the plan are completed, debtors receive a [discharge](#), within the guidelines of the Bankruptcy Code.

Automatic Stay is in effect the moment a bankruptcy case is filed (11 U.S.C. § 362). As long as the stay is in effect, creditors generally cannot initiate or continue any lawsuits, foreclosure actions on your residence or other real property, wage garnishments, or even telephone calls demanding payments. There are some exceptions to the automatic stay (11 U.S.C. § 362(b)) such as criminal proceedings against the debtor, domestic support actions and governmental tax audits.

III. Court Access

If you live in one of the following counties, you must file in the Court's [Baltimore](#) location:

Anne Arundel	Cecil	Queen Anne's
Baltimore City	Dorchester	Somerset
Baltimore County	Harford	Talbot
Caroline	Howard	Wicomico
Carroll	Kent	Worcester

If you live in one of these counties, you must file in the Court's [Greenbelt](#) location:

Allegany	Frederick	Prince George's
Calvert	Garrett	St. Mary's
Charles	Montgomery	Washington

Please note, depending on the county in which you live, your meeting of creditors and hearings in your case may be held in a different location than where you filed your bankruptcy petition. It is important to read all notices from the Bankruptcy Court carefully to determine where your hearings will be held.

Meetings of Creditors Locations

Meetings of creditors are not held at the court; they are held at the Office of the U.S. Trustee in [Baltimore](#) and [Greenbelt](#). Read all notices from the Court very carefully. Please also note: depending on the county the debtor lives in, some meetings of creditors and some hearings may be held at locations in [Salisbury](#) or [Hagerstown](#). As a debtor in a bankruptcy case, you must appear at the meeting of creditors.

Addresses and Directions to the Court

U.S. Bankruptcy Court

Baltimore Division
Garmatz Federal Courthouse
101 W. Lombard St.
Suite 8303
Baltimore, MD 21201
410-962-2688

Greenbelt Division
Federal Courthouse
6500 Cherrywood Ln.
Suite 300
Greenbelt, MD 20770
301-344-8018

Directions from I-95 [\(link to map\)](#)

Merge onto I-395 North toward downtown. I-395 becomes Howard St. Turn right onto W. Pratt St. Turn left onto S. Hanover and the courthouse is on your left.
Parking: There is no street parking. There are parking garages in the area.

Directions from 495 [\(link to map\)](#)

Take the MD 201/Kenilworth Ave exit 23 toward Greenbelt/Bladensburg. Turn left onto Kenilworth Ave/201 N toward Greenbelt. Turn left onto Cherrywood Ln. The courthouse is on the right.
Parking: There is ample free parking.

Public Transportation: The courthouse is 3 blocks east of the Convention Center stop on the light rail line and 3 blocks south and west of the Charles Center stop on the Metro subway. It is also accessible from several bus routes. www.mtmaryland.com

Public Transportation: The courthouse is approximately 2 miles from the Greenbelt Metro station on the green line and may also be reached by several bus routes. www.wmta.com

Office of the U.S. Trustee

Baltimore Division
101 W. Lombard St., Suite 2625
Baltimore, MD 21201
410-962-4300

Greenbelt Division
6305 Ivy Ln., Suite 600
Greenbelt, MD 20770
301-344-6216

Directions from I-95 ([link to map](#))

Merge onto I-395 North toward downtown. I-395 becomes Howard St. Turn right onto W. Pratt St. Turn left onto S. Hanover and the courthouse is on your left. There are several parking garages in the area.

Directions from 495 ([link to map](#))

Take the MD 201/Kenilworth Ave exit 23 toward Greenbelt/Bladensburg. Turn left onto Kenilworth Ave/201 N toward Greenbelt. Turn left onto Cherrywood Ln and turn left again onto Ivy Ln. Parking is free.

Satellite Locations

Hagerstown City Hall ([link to map](#))
16 W. Washington St.
Room 110
Hagerstown, MD 21740-4804

Salisbury Courthouse ([link to map](#))
U.S. Post Office Bldg
129 E. Main St.
Salisbury, MD 21801

Hours of Operation

Both divisions of the Court are open for business Monday through Friday, excluding federal holidays, 8:00 a.m. to 4:00 p.m. Filings may also be mailed to the appropriate divisions. [Click here](#) for information about filing alternatives after business hours. Neither of the satellite locations are staffed offices. They are locations for certain meetings of creditors or hearings only.

IV. Chapter 7

Eligibility

Subject to the means test, relief is available under Chapter 7 regardless of the amount of the debtor's debts, or whether the debtor is solvent or insolvent (11 U.S.C. § 109(b), 101(41)). An individual cannot file under Chapter 7 or any other chapter, however, if during the preceding 180 days a prior bankruptcy petition was dismissed due to the debtor's willful failure to appear before the court or comply with orders of the court, or the debtor voluntarily dismissed the previous case after creditors sought relief from the automatic stay (11 U.S.C. § 109(g), 362(d), (e)). In addition, no individual may be a debtor under Chapter 7 or any chapter of the Bankruptcy Code unless he or she has, within 180 days before filing, received credit counseling from an approved credit counseling agency either in an individual or group briefing (11 U.S.C. § 109(h), 111), or has requested a waiver of credit counseling (11 U.S.C. § 109(h)(4)). A list of approved credit counseling agencies for Maryland can be found at http://www.usdoj.gov/ust/eo/bapcpa/ccde/cc_approved2-1.htm#MD. A Waiver of credit counseling is very rare.

Means Test: Presumption of Abuse

As of October 17, 2005, consumer debtors (non-business) must overcome a presumption of abuse in order to be eligible for relief under Chapter 7. To determine whether a presumption of abuse arises, individual debtors with primarily consumer debts who are filing a Chapter 7 must complete [Statement of Current Monthly Income and Means Test Calculation - For Use in Chapter 7](#), or Official Bankruptcy Form B22A. The debtor's current monthly income, after certain statutorily allowed expenses, is compared to the state median for families of the same size. If the Chapter 7 filing is determined to be presumptively abusive, the debtor may try to rebut, or challenge the presumption of abuse by showing special circumstances. Unless the debtor overcomes the presumption of abuse, the Court may convert the case to Chapter 13 (with the debtor's consent) or dismiss the case (11 U.S.C. § 707(b)(1)). For more information on the Means Test, visit www.usdoj.gov/ust/bapcpa/meanstesting.htm.

Fees/Installments/Waiver

The filing fee for a Chapter 7 is \$299.00. All fees should be paid to the Clerk of the Court upon filing or may, with the Court's permission, be paid by individual debtor(s) in up to four installments. This requires the filing of an [Application and Order To Pay Filing Fees In Installments](#) (28 U.S.C. § 1930(a), F.R.B.P. 1006(b) and L.B.R. 1006-1). Each payment noted on the application should reflect payments to be made no later than 90 days after filing the petition. See www.mdb.uscourts.gov, Reference Library, under Filing Resources, click on COURT FORMS- Official Bankruptcy Forms for the *APPLICATION AND ORDER TO PAY FILING FEES IN INSTALLMENTS*.

If the debtor is unable to pay the filing fee in full or in installments, the Court may waive the filing fee in a case under Chapter 7 (28 U.S.C. § 1930(f)) if the debtor meets certain criteria. The debtor(s) must file with the voluntary petition an [Application For Waiver of the Chapter 7 Filing Fee](#), and then a judge will decide whether the fee may be waived. If the Chapter 7 petition is being jointly filed, both spouses must complete and sign the application. By law, the judge may waive the filing fee **only** if the debtor's income is less than 150% of the official poverty line applicable to the debtor's

family size **and** the debtor cannot pay the fee in installments. This is known as proceeding in forma pauperis.

Forms Required to File

To complete the Official Bankruptcy Forms that make up the petition and schedules, the debtor will need to compile the following information:

- A list of creditors, including current addresses, the amount and nature of their claims
- The source, amount, and frequency of the debtor's income
- A list of all of the debtor's property
- A detailed list of the debtor's monthly living expenses (i.e. food, clothing, shelter, utilities, taxes, transportation, medicine, etc.)

When a husband and wife file a joint petition, they should be sure to gather the above detailed data for both spouses. The Official Bankruptcy Forms are located at www.mdb.uscourts.gov at the *Reference Library* under COURT FORMS-OFFICIAL BANKRUPTCY FORMS.

The Forms required for a Chapter 7 Filing:

- [Voluntary Petition](#)
- [Schedules A-J](#) and [Summary of Schedules](#)
- Schedules A-H (Business or Corporate Filings)
- [Statement of Financial Affairs](#)
- [Declaration](#) of Debtor's Schedules and Statement of Financial Affairs
- [Statement of Intent](#)
- [B22A Statement of Current Monthly Income and Means Test Calculation](#)
- [B21 \(Statement of Social Security Number\)](#) (not required for business filings)
- List of Creditors and Verification of Creditor Matrix

Individual debtors with primarily consumer debts have additional document filing requirements.

- Certificate of Credit Counseling
- Any debt repayment plan developed through credit counseling
- Statement of monthly net income and any anticipated increase in income or expenses after filing
- A record of any interest in federal or state qualified education or tuition accounts

Debtors must also provide the assigned case trustee with evidence of payment from employers (pay stubs), received in the 60 days before filing (L.B.R. 1007-4) and a copy of the tax return or transcripts for the most recent tax year as well as tax returns filed during the case (including tax returns for prior years that had not been filed when the case began) (11 U.S.C. § 521).

Many papers must be filed under oath and under the penalty of perjury. Perjury means making a false statement under oath. The penalty for perjury is a fine of up to \$500,000 or imprisonment for up to five years or both (18 U.S.C. §§ 152 and 3571). The following declaration must be included and signed on the voluntary petition and on schedules, statements and declarations if they are filed separately: "I declare, under the penalty of perjury, that the information provided in this document is true and correct to the best of my knowledge, information and belief."

Amendments to Schedules

If you need to add creditors to your case, an amendment to schedules must be filed with the Office of the Clerk at the location where your case is being administered. There is a fee of \$26.00, payable in cash, cashier's check, certified check or money order made payable to the Clerk, U.S. Bankruptcy Court for each amendment to add creditors (28 U.S.C. §1930(a)). Sign the amendment with a verified signature or a declaration under penalty of perjury. If the petition is filed by a husband and wife jointly, both must sign the amendment.

You are responsible for noticing the added creditors (i.e. sending copies of pleadings), the United States Trustee and the trustee assigned to your case, and for filing a [certificate of service](#) with the Clerk of Court.

Please note, the discharge in a Chapter 7 case may not discharge the debts of creditors that you fail to list on your bankruptcy schedules.

Automatic Stay

The filing of a petition under Chapter 7 automatically stays actions against the debtor or the debtor's property (11 U.S.C. § 362). The stay arises by operation of law and requires no judicial action. However, if the debtor has two or more prior cases dismissed within the previous year, the automatic stay is not in effect (11 U.S.C. 362 (c)(4)). If the debtor has one prior case dismissed within the previous year, the automatic stay is in effect for only 30 days. But you may be entitled to extend the automatic stay under certain circumstances by filing a request with the Bankruptcy Court. As long as the stay is in effect, creditors generally cannot initiate or continue any lawsuits, including foreclosure actions against your real estate, wage garnishments, or even telephone calls demanding payments. Creditors normally receive notice of the filing of the petition from the Clerk by the issuance of the 341 meeting of creditors notice.

Exempt Property

Individual debtors may protect some property from the claims of creditors, because it is "exempt" under the laws of the State of Maryland. Exempt property is property a debtor is entitled to keep. An exemption limit applies to any equity you have in the property. Equity is the difference between the value of the property and what is owed on the property. In other words, a debtor is entitled to keep property to the extent that the debtor can exempt it. For example, a car valued at \$5000 with a loan of \$4500 has an equity value of only \$500. Maryland limits exemptions to cash or property equivalent in value to \$12,000 (MD Annotated Code, Courts and Judicial Proceedings §11-504 (2005)). See [Appendix A](#) for complete information about Maryland Exemptions.

If your property, such as a car or home, is security for a loan, and you are current on the payments, and if the equity you have in the property is less than the exemption limit, and you elect to keep making payments on the loan, you can generally keep this property through the bankruptcy. If the equity is greater than your exemptions, the trustee may elect to liquidate this asset and distribute the funds. Generally, in this case, you would be entitled to the value of your exemption in the asset as a cash payment.

Bankruptcy law allows married couples filing jointly to each claim a full set of exemptions, unless otherwise noted.

To keep non-exempt property, a debtor must generally pay the trustee the value of the non-exempt property.

Meeting of Creditors

After the bankruptcy case is filed, a meeting of creditors will be scheduled. Debtors are required to bring a picture ID and proof of Social Security Number to the meeting of creditors. At the meeting, the trustee questions the debtor(s) under oath regarding the debtor's assets and debts, income and expenses, employment and family obligations. The trustee will determine if the information contained in the debtor's petition is complete and accurate and if there are sufficient assets to pay all or part of the debts owed to creditors. The debtor must attend the meeting of creditors and answer the questions under oath, truthfully and completely. It is extremely important that you provide the trustee with all information and documentation that he or she requests. All meetings of creditors are electronically recorded.

Creditors who appear at the meeting of creditors may also ask questions regarding the debtor's debts, assets and budget. The creditors may elect a trustee to act on their behalf, but the interim trustee, assigned by the United States Trustee at the time of the filing of the bankruptcy petition, usually retains that position. After completing the questioning, if the trustee is satisfied with the information provided, the meeting is concluded. If the trustee requires additional information, the meeting may be rescheduled to another date to allow the debtor(s) time to gather any additional information.

Role of Trustee

On the filing of a Chapter 7 petition, a trustee is appointed by the United States Trustee (11 U.S.C. §§ 701 and 704). The duties of the Chapter 7 trustee are set forth in the Bankruptcy Code and include the examination of the debtor, the collection of assets of the estate, if any, and the distribution of those assets to creditors.

It is the trustee's responsibility to examine the debtor(s) at the [meeting of creditors](#) about the contents of the bankruptcy petition and, if necessary, ask for additional documents, such as copies of tax returns, appraisals on real estate, etc. After examining the debtor(s) and obtaining any additional information he/she may request, the trustee determines whether there are assets for distribution to creditors.

The commencement of a bankruptcy case creates an "estate." The trustee technically becomes the temporary legal owner of all of the debtor's nonexempt property. The estate consists of all legal or equitable interests of the debtor in property as of the date of the filing of the case, including property owned or held by another person in which the debtor has an interest. The trustee pays the creditors from the proceeds from selling non-exempt property of the estate.

The trustee also pursues causes of action or lawsuits, which the debtor may have filed before the bankruptcy case. When necessary, the trustee will initiate causes of action to recover money or property of the estate.

If it appears there is no property available to reduce to cash, the case is called a "no asset" case. In the typical no asset Chapter 7 case, there is no need for creditors to file proofs of claim. If the

trustee later recovers assets for distribution to unsecured creditors, creditors will be given notice of a deadline to file proofs of claim.

Conversion

In order to accord the debtor complete relief, the Bankruptcy Code allows the debtor to convert a Chapter 7 case to either a Chapter 11 reorganization case or a case under Chapter 13, as long as the debtor meets the eligibility standard under the chapter to which the debtor seeks to convert, and the case has not previously been converted to Chapter 7 from either Chapter 11 or Chapter 13. The debtor will not be permitted to convert the case repeatedly from one chapter to another (11 U.S.C. § 706(a)). [Click here to see the Court's fee schedule.](#)

Distribution of Assets

Creditors are paid from non-exempt property of the estate. The trustee liquidates (sells) the debtor's non-exempt assets in a manner that maximizes the return to the debtor's creditors (such as property the debtor owns free that has market value above the amount of any security interest or lien and any exemption that the debtor holds in the property).

Section 507(a) of the Bankruptcy Code defines six classes of creditors in a bankruptcy and sets out the priority that funds from the liquidation of non-exempt assets of the estate are to be distributed. Each class must be paid in full before the next lower class receives any money.

Reaffirmation Agreements

The debtor may have special reasons to pay certain creditors even though the debts owed to these creditors may be discharged in the bankruptcy case. While a debtor may choose to repay a debt voluntarily without entering into an agreement or contract with the creditor, the debtor may choose to enter into a reaffirmation agreement. For example, you may want to enter into an agreement with the bank or loan company to keep a car. To reaffirm that debt with the bank or loan company, you may sign a reaffirmation agreement and file it with the Court. Reaffirmation agreements are covered under special rules and are voluntary (11 U.S.C. § 524(c), (k)). They are not required by bankruptcy law or any other law. Reaffirmation agreements:

- must be voluntary;
- must not place too heavy a burden on the debtor or the debtor's family;
- must be in the debtor's best interests; and
- can be canceled any time before the Court issues a discharge or within 60 days after the agreement is filed with the Court, whichever gives the most time.

An individual not represented by an attorney must appear before a judge at a hearing to determine whether to approve the reaffirmation agreement. A reaffirmation agreement is not legally binding until the Court approves it.

If a debtor enters into a reaffirmation agreement and fails to continue the payments, the debt is due and owing as if there were no bankruptcy filed. The debt is not discharged and the creditor can commence action to recover the property on which it has a lien or mortgage. The creditor can also take legal action to recover a judgment against the debtor for any deficiency.

Discharge

One of the reasons a bankruptcy is filed is for the debtor to receive a discharge. A discharge is a court-ordered release of a debtor from personal liability for certain specified types of debts. A debtor is no longer required by law to pay any debts that are discharged.

However, some debts cannot be discharged. Section 523(a) of the Bankruptcy Code applies to debts that are nondischargeable. The most common types of nondischargeable debts are:

- most taxes
- child support
- alimony
- most student loans
- court fines and criminal restitution
- personal injury caused by driving under the influence of drugs or alcohol
- a debt for money or property received by fraud

A discharge only applies to debts that arose before the date of the filing of the bankruptcy. Therefore, it is important to list all debts in the bankruptcy schedules.

A debtor can receive a discharge in a Chapter 7 once every eight years (11 U.S.C. § 727(a)(8)). A creditor cannot make a debtor pay a debt that has been discharged, but a debtor can voluntarily pay any debt. A debtor does not have to sign a reaffirmation agreement or any other document to voluntarily pay a debt. Some creditors hold a secured claim (for example, the bank that holds the mortgage to your house or the loan company that has a lien on your car). A debtor does not have to pay a secured claim if the debt is discharged; however, if the payments are not made and the lien has not been avoided in the bankruptcy case, the creditor may still repossess the car or foreclose on the mortgage.

In Chapter 7 cases, the debtor does not have an absolute right to a discharge. An objection to the debtor's discharge may be filed by a creditor, by the trustee in the case, or by the United States Trustee. Creditors receive a notice shortly after the case is filed that sets important dates, including the deadline for objecting to the discharge. To object to the debtor's discharge a creditor must do so by filing an [adversary proceeding](#), or lawsuit in the bankruptcy court, before the deadline set out in the notice. A Chapter 7 discharge may be denied for any of the reasons described in section 727(a) of the Bankruptcy Code, including the transfer or concealment of property with intent to hinder, delay, or defraud creditors; destruction or concealment of books or records; perjury and other fraudulent acts; failure to account for the loss of assets; violation of a court order; or an earlier discharge in a Chapter 7 or 11 case started within eight years before the date the current petition was filed.

Changes to the Bankruptcy Code, effective October 17, 2005, require the debtor to complete an instructional course for personal financial management, within 45 days from the first date set for the §341 meeting of creditors, as a condition for receiving a discharge. Once the debtor files [Form 23 Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management](#), unless there is litigation involving objections to the discharge, the debtor automatically receives a discharge order. However, a judge can deny a discharge if the debtor does

something dishonest in connection with the bankruptcy case, such as destroy or hide property, falsify records, lie or disobey a court order. The discharge order mailed by the Court informs creditors generally that the debts owed to them have been discharged and that they should not attempt any further collection of the debt from the debtor. They are cautioned in the discharge order that continuing collection efforts could subject them to punishment for contempt. The Court usually grants and mails a copy of the discharge order to the debtor, creditors and all interested parties promptly after the expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case for substantial abuse (60 days following the first date set for the 341(a) meeting). Typically, this occurs about four months after the date the debtor files the petition with the Clerk of the Bankruptcy Court, unless the date is extended.

A discharge will be denied in a later Chapter 7 case if the debtor has been granted a discharge under Chapter 7 or Chapter 11 in a case filed within eight years before the second petition is filed. In other words, a debtor can receive a Chapter 7 discharge only once every eight years. The debtor will also be denied a Chapter 7 discharge if he or she previously was granted a discharge in a Chapter 13 case filed within six years before the date of the filing of the second case, unless (1) all the "allowed unsecured" claims in the earlier case were paid in full, or (2) payments under the plan in the earlier case totaled at least 70% of the allowed unsecured claims and the debtor's plan was proposed in good faith and the payments represented the debtor's best effort to comply with the terms of payment set out in the plan (11 U.S.C. §727(a)(9)).

A discharge can be canceled (revoked) under certain circumstances. For instance, a trustee, creditor, or the United States Trustee may request that the Court revoke the debtor's discharge in a Chapter 7 case based on allegations that the debtor obtained the discharge fraudulently, that the debtor failed to disclose the fact that he or she acquired, or became entitled to acquire, property that would constitute property of the bankruptcy estate; or the debtor committed one of several acts of impropriety described in section 727(a)(6) of the Bankruptcy Code. Typically, a request to revoke the debtor's discharge must be filed within one year after the granting of the discharge or, in some cases, before the date that the case is closed. It is up to the Court to determine whether such allegations are true and, if so, to revoke the discharge.

Dismissal

The Court may dismiss a case under Chapter 7 for cause or at the request of a party of interest pursuant to: 11 U.S.C. 707(a), § 707(b), § 1208(b) and (c)(1), 1307(b) and (c) and F.R.B.P. 1017(b) and 1112(b) and (e). Reasons for dismissal include:

- Voluntary Dismissal of Debtor
- Failure To Pay Filing Fees
- For Substantial Abuse
- Failure To Timely File Schedules and Statements
- Failure To Appear for the 341 Meeting of Creditors

A dismissal order ends the bankruptcy case. The dismissal order removes the automatic stay which prevented a creditor from collecting on a debt or taking other actions against the debtor and the debtor's property. Debts that were discharged prior to dismissal are not affected by the dismissal order, unless the discharge order was revoked.

V. Chapter 13

Eligibility

In order for a person to qualify for relief under Chapter 13 of the Bankruptcy Code, they must have enough regular income to fund a Chapter 13 plan. Regular income can include not only a paycheck, but may also include welfare payments, social security payments, pension payments and any other type of regular fixed income. Additionally, the person must have unsecured debts in an amount less than \$307,675.00 and secured debts in an amount less than \$922,975.00 (11 U.S.C. § 109(e)). An individual cannot file under Chapter 13 or any other chapter, however, if during the preceding 180 days a prior bankruptcy petition was dismissed due to the debtor's willful failure to appear before the Court or comply with orders of the Court, or the debtor voluntarily dismissed the previous case after creditors sought relief from the Bankruptcy Court to recover property upon which they held liens (11 U.S.C. § 109(g), 362(d),(e)). In addition, no individual may be a debtor under Chapter 13 or any chapter of the Bankruptcy Code unless (within 180 days before filing) he or she has received credit counseling from an approved credit counseling agency either in an individual or group briefing (11 U.S.C. § 109 (h)).

Fees/Installments

The filing fee for a Chapter 13 is \$274.00. All fees should be paid to the Clerk of the Court upon filing (payable in cash, cashier's check, certified check or money order) or may, with the Court's permission, be paid by individual debtor(s) in up to four installments. Paying in installments requires the filing of an [Application and Order To Pay Filing Fees In Installments](#) (28 U.S.C. § 1930(a), F.R.B.P. 1006(b), L.B.R. 1006-1). Each payment noted on the application should reflect payments to be made no later than 90 days after filing the petition. See www.mdb.uscourts.gov, Reference Library, under Filing Resources, click on COURT FORMS-Official Bankruptcy Forms for the *APPLICATION AND ORDER TO PAY FILING FEES IN INSTALLMENTS*.

Forms Required to File

To complete the Official Bankruptcy Forms which make up the petition and schedules, the debtor will need to compile the following information

- A list of creditors, including current addresses, the amount and nature of their claims
- The source, amount, and frequency of the debtor's income
- A list of all of the debtor's property
- A detailed list of the debtor's monthly living expenses (i.e. food, clothing, shelter, utilities, taxes, transportation, medicine etc.)

A husband and wife need to gather the above detailed data for both spouses whether they are filing jointly or not. The Official Bankruptcy Forms are located at www.mdb.uscourts.gov under *Reference Library*, COURT FORMS-OFFICIAL BANKRUPTCY FORMS.

The Forms required for a Chapter 13 Filing:

- [Voluntary Petition](#)
- [Schedules A-J](#) and [Summary of Schedules](#)

- [Statement of Financial Affairs](#)
- [Declaration](#) of Debtor's Schedules and Statement of Financial Affairs
- [B22C Statement of Current Monthly Income and Means Test Calculation](#)
- [B21 \(Statement of Social Security Number\)](#) (not required for business filings)
- List of Creditors and Verification of Creditor Matrix
- Chapter 13 Plan (If the plan is not filed with the petition, it must be filed within 15 days, unless extended by the Court for cause (Federal Rule of Bankruptcy Procedure 3015)). The 13 Plan must conform to [Local Bankruptcy Form M](#) (L.B.R. 3015-1).
- Certificate of Credit Counseling
- Any debt repayment plan developed through credit counseling
- Statement of monthly net income and any anticipated increase in income or expenses after filing
- A record of any interest in federal or state qualified education or tuition accounts

Debtors must also provide the assigned case trustee with evidence of payment from employers (pay stubs), received 60 days before filing (L.B.R. 1007-4) and a copy of the tax return or transcripts for the previous 4 tax years as well as tax returns filed during the case (including tax returns for prior years that had not been filed when the case began) (11 U.S.C. § 521).

All schedules and statements filed with the Court are filed under oath and under the penalty of perjury. Perjury means making a false statement under oath. The penalty for perjury is a fine of up to \$500,000 or imprisonment for up to five years or both (18 U.S.C. §§ 152 and 3571). The following declaration must be included and signed on the voluntary petition and on schedules, statements and declarations if they are filed separately: "I declare, under the penalty of perjury, that the information provided in this document is true and correct to the best of my knowledge, information and belief." A notary is not needed.

[Plan to Repay Debts](#)

The Chapter 13 Plan is a repayment plan, typically spread over three to five years, filed by the debtor either when the petition is filed or within 15 days, unless an extension is granted by the Court for cause (Federal Rule of Bankruptcy Procedure 3015). (An extension of time must be requested before the expiration of the initial 15 days.). The 13 plan must:

- provide for payments of fixed amounts to the trustee on a regular basis, typically monthly;
- provide for the full payment of all claims entitled to priority under section 507, such as taxes and child support (unless the holder of a particular claim agrees to different treatment of the claim);
- provide or equal monthly payments to secured creditors paid through the Chapter 13 plan;
- if the plan classifies claims, provide the same treatment for each claim within each class;
- provide for the submission of such portion of the debtor's future income to the supervision of the trustee as is necessary for the execution of the plan (11 U.S.C. § 1322).
- conform to [Local Bankruptcy Form M](#) (L.B.R. 3015-1).
- at a hearing will be approved by the Court.

After the meeting of creditors has taken place, the bankruptcy judge will hold a hearing to determine whether the plan filed with the Court is feasible and meets the standards for confirmation set forth

in the Bankruptcy Code (11 U.S.C. §§ 1324 and 1325). This is referred to as the confirmation hearing. Creditors receive 25 days notice of the hearing and may object to confirmation. Within eight days prior to the confirmation hearing, the debtor must file a [Pre-Confirmation Certificate](#) (Local Bankruptcy Form O) in which the debtor declares under penalty of perjury that all fees required under 28 U.S.C. sec. 1930 or by the plan have been paid before confirmation; that any domestic support obligation which became payable after the date of the filing of the petition is paid; and that all applicable federal, state, and local tax returns have been filed for all taxable periods ending during the four year period ending on the date of the filing of the petition. (L.B.R. 3015-2(c)). If the confirmation hearing is continued, the Pre-Confirmation Certificate must be updated and filed with the Court as an *amended certificate*.

The provisions of a confirmed plan are contractual and binding on the debtor and each creditor (11 U.S.C. § 1327). Creditors may file objections to the confirmation of a proposed plan to repay them. The trustee may also object to the confirmation of the proposed plan. The most frequent objections are that payments offered under the plan are less than creditors would receive if the debtor's assets were liquidated or that the debtor's plan does not commit all of the debtor's projected disposable income for the period of the plan.

A Chapter 13 debtor must start making payments to the Chapter 13 trustee within thirty (30) days after filing the case with the Court, even if the plan has not yet been approved by the Court or filed by the debtor (11 U.S.C. § 1326(a)(1)). Payments to secured creditors should continue as well if debtors intend to keep the property. If the plan is confirmed by the bankruptcy judge, the Chapter 13 trustee commences distribution of the funds received in accordance with the plan "as soon as practicable." (11 U.S.C. § 1326(a)(2)).

The trustee distributes the funds to creditors according to the terms of the plan, which may offer certain creditors less than full payment on their claims. If the trustee or a creditor with an unsecured claim objects to confirmation of the plan, the debtor is obligated to pay the amount of the claim or commit to the proposed plan all projected "disposable income" during the period in which the plan is in effect (11 U.S.C. § 1325(b)).

Disposable income is defined as income not reasonably necessary for the maintenance or support of the debtor or dependents. If the debtor operates a business, disposable income is defined as excluding those amounts which are necessary for the payment of ordinary operating expenses (11 U.S.C. § 1325(b)(2)(A) and (B)).

[Amendments to Schedules](#)

If you need to add creditors to your case, an amendment to schedules must be filed with the Office of the Clerk at the location where your case is being administered. There is a fee of \$26.00, payable in cash, cashier's check, certified check or money order made payable to the Clerk, U.S. Bankruptcy Court for each amendment to add creditors (28 U.S.C. §1930(a)).

Sign the amendment with a verified signature or a declaration under penalty of perjury. If the petition is filed by a husband and wife jointly, both must sign the amendment.

You are responsible for sending a notice to the added creditors (i.e. sending copies of pleadings), the United States Trustee and the trustee assigned to your case, and for filing a [certificate of service](#) with the Clerk of Court.

Please note, the discharge in a Chapter 13 case will not discharge debts of those creditors not listed on your bankruptcy schedules.

Automatic Stay

The filing of a petition under Chapter 13 automatically stays actions against the debtor or the debtor's property (11 U.S.C. § 362(a)) as well as actions against any other person that is also liable on a consumer debt with the debtor (11 U.S.C. § 1301). The stay arises by operation of law and requires no judicial action. As long as the stay is in effect, creditors generally cannot initiate or continue any lawsuits, foreclosure actions, wage garnishments, or even telephone calls demanding payments. Creditors normally receive notice of the filing of the petition from the Clerk by the issuance of the 341 meeting of creditors notice. If there has been a dismissal of a prior bankruptcy case within the year prior to the filing of the latest case, there are some limitations to the automatic stay as discussed under the Chapter 7 automatic stay section.

Exempt Property

Individual debtors may protect some property from the claims of creditors, because it is "exempt" under the laws of the State of Maryland. Exempt property is property a debtor is entitled to keep. An exemption limit applies to any equity you have in the property. Equity is the difference between the value of the property and what is owed on the property. In other words, a debtor is entitled to keep property to the extent that the debtor can exempt it. For example, a car valued at \$5000 with a loan of \$4500 has an equity value of only \$500. Maryland limits exemptions to cash or property equivalent in value to \$12,000 (MD Annotated Code, Courts and Judicial Proceedings §11-504 (2005)). See [Appendix A](#) for complete information about Maryland Exemptions.

If your property, such as a car or home, is security for a loan, and you are current on the payments, and if the equity you have in the property is less than the exemption limit, and you elect to keep making payments on the loan, you can generally keep this property through the bankruptcy. If the equity is greater than your exemptions, at the Court's discretion or as directed in the Chapter 13 plan, the property may be surrendered to satisfy the debt.

Bankruptcy law allows married couples filing jointly to each claim a full set of exemptions, unless otherwise noted.

Meeting of Creditors

Debtors are required to bring a picture ID and proof of Social Security Number to the meeting of creditors. At the meeting, the trustee questions the debtor(s) regarding the debtor's assets and debts, income and expenses, employment and family obligations. The trustee will determine if the information contained in the debtor's petition is complete and accurate and if there are potential assets to pay all or part of the debts owed to unsecured creditors. The debtor must answer the questions under oath, truthfully and completely. Creditors who appear at the meeting of creditors may also question the debtor about debts, assets and the debtor's budget.

After completing the questioning, if the trustee is satisfied with the information provided, the meeting is concluded. If the trustee requires additional information, the meeting may be adjourned to another date to allow the debtor(s) time to gather any additional information.

A [confirmation hearing](#), where the Court decides whether to approve the debtor's plan, is scheduled within 45 days of the first date set for the meeting of creditors. The debtor(s) must start paying the trustee within 30 days of the filing of the case. At the confirmation hearing, the judge may approve the plan to repay creditors based on the debtor's record of payments and the recommendation of the trustee; or the judge may require amendment of the plan and a further hearing. Please note, all meetings of creditors are electronically recorded.

Role of Trustee

Upon the filing of the petition, an impartial trustee is appointed by the United States Trustee to administer the case. The primary roles of the Chapter 13 trustee are to examine debtors' plans and make recommendations and to serve as a disbursing agent. This means that the trustee collects regular payments from the debtors and makes distributions to the creditors (11 U.S.C. § 1302).

Confirmation of the Plan

A confirmation hearing is held to determine whether the plan will be approved, or confirmed. If the Court confirms the plan, the debtor(s) must continue to make regular payments to the Chapter 13 trustee. That means that the debtor(s) will have to operate within the budget proposed in the plan of repayment.

Confirmation of the plan entitles the debtor(s) to retain property if plan payments and regular payments to secured creditors are made. Debtor(s) may not incur any new credit obligations without consulting the Chapter 13 trustee because new credit obligations may have an impact on the trustee's responsibility to pay the creditors under the terms of the plan (11 U.S.C. §§ 1305(c), 1322(a)(1) and 1327). The debtor may not sell real estate or refinance a mortgage on real estate without first filing a written request and obtaining the Court's permission after notice to creditors and the trustee.

Unless the court orders otherwise, plan payments are deducted from debtor's paycheck. Experience has shown that this practice increases the likelihood that payments will be made on time and that the plan will be completed. Failure of the debtor(s) to make the payments in accordance with the confirmed plan may result in the case being dismissed or converted to a liquidation case under Chapter 7 of the Bankruptcy Code (11 U.S.C. § 1307(c)). Please note, if a debtor originally filed a case under Chapter 7 and the debtor failed the "means test" resulting in conversion of the debtor's case to Chapter 13, the debtor will likely be unable to re-convert his or her case back to Chapter 7. Instead the debtor's Chapter 13 case will likely be dismissed. The debtor should continue making plan payments directly to the trustee until deductions are actually taken from his paycheck.

If the plan is not confirmed by the bankruptcy judge, the debtor has a right to amend their proposed plan (11 U.S.C. § 1323), unless the Court denies confirmation without permission to amend. As noted previously, the debtor also has a right to convert the case to a liquidation case under Chapter 7 (11 U.S.C. § 1307). If the plan or amended plan is not confirmed and the case is dismissed, the trustee will return to the debtor all funds paid to the trustee, after first deducting any amounts for fees or costs or as otherwise directed by the Court (11 U.S.C. § 1326(a)(2)). As discussed

previously, however, if the debtor failed the “means test” in Chapter 7 and the debtor’s case was converted to Chapter 13, reconversion to Chapter 7 may not be available.

Borrowing or Refinancing

The debtor(s) may not incur any new credit obligations without consulting the Chapter 13 trustee because new credit obligations may have an impact on the trustee's responsibility to pay the creditors under the terms of the plan (11 U.S.C. §§ 1305(c), 1322(a)(1) and 1327). Requests are then made to the Court for permission to incur additional debt ([See Filing Motions/Asking the Court to Rule](#)).

Sales of Property

The debtor(s) may not sell real property or any other asset of significant value without first filing a written request and obtaining the Court’s permission after notice to creditors and the trustee. Notice must include information about the appraised value or scheduled value of the asset, the purchaser’s identity and relationship, if any, to the debtor or any party in interest, purchase amount, date by which any objections must be filed and a hearing date selected from the Court’s website if any objections are filed (L.B.R. 6004-1).

Modifying the Plan

In accordance with L.B.R. 3015-1(b), if the confirmation hearing has not been held yet and the debtor wants to change the terms of their plan, they may file an Amended Plan with the Court. However, once the plan has been confirmed, if the debtor wants to make changes, the Court’s permission is needed. In this case the debtor files a Motion to Modify the Plan, and submits with the motion a copy of the proposed modified plan for the Court and trustee to review (11 U.S.C. § 1323). A hearing will be held to determine whether the plan may be modified.

Post-Confirmation Duties

Chapter 13 debtors have an ongoing duty to inform the Chapter 13 trustee of any changed circumstances in the debtor’s financial condition, even after the debtor’s Chapter 13 Plan is approved by the Court. Specifically, Chapter 13 debtors must file an annual statement, under penalty of perjury, of the debtor’s income and expenses in the preceding tax year and a statement of the debtor’s monthly income that shows the amount and sources of the income. Additionally, Chapter 13 debtors must provide the trustee with a copy of any income tax returns or amendments to any income tax returns filed during the course of the bankruptcy case (including tax returns for prior years that were not filed when the case began).

Conversion

In order to accord the debtor complete relief, the Bankruptcy Code allows the debtor to convert a Chapter 13 case to either a Chapter 11 reorganization case or a Chapter 7; as long as the case has not previously been converted to Chapter 13 from either Chapter 11 or Chapter 7. The debtor may file this request as a notice of voluntary conversion. [Click here to see the Court’s fee schedule](#). The debtor will not be permitted to convert the case repeatedly from one chapter to another (11 U.S.C. §706(a)).

Discharge

A discharge is a court-ordered release of a debtor from personal liability for certain specified types of debts. A debtor is no longer required by law to pay any debts that are discharged. The

Bankruptcy Code requires all consumers who file for bankruptcy to successfully complete a U.S. Trustee-approved debtor financial education course prior to receiving a discharge for their debts. This course is in addition to the credit-counseling a debtor must receive prior to filing a bankruptcy petition.

Once Chapter 13 plan payments have been completed, the trustee issues a notice to the court stating that payments have been completed and requesting that a discharge be issued. The debtor must file a Financial Management Course Certificate (if a joint petition has been filed, each spouse must complete and file a separate certificate) and an [Affidavit Requesting Discharge](#) (Local Bankruptcy Form P) no later than (90) days after completion of all payments under a confirmed plan. Failure to timely file this affidavit may result in the case being closed without a discharge. The affidavit must be served on the Chapter 13 trustee and all creditors.

A slightly broader discharge of debts is available to a debtor in a Chapter 13 case than in a Chapter 7 case. As a general rule, the Chapter 13 debtor is discharged from all debts set out in the plan except:

- certain long-term obligations (such as a home mortgage);
- specific types of taxes;
- debts obtained by false pretenses, false representations or actual fraud;
- debts for domestic support obligations, such as alimony or child support;
- debts for most government funded or guaranteed educational loans or benefit overpayments;
- debts arising from death or personal injury caused by driving while intoxicated or under the influence of drugs;
- debts for restitution or damages awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to another or resulted in the death of another;
- debts for restitution or a criminal fine included in a sentence on the debtor's conviction of a crime; or
- debts not listed on the debtor's schedules or that are otherwise not provided for in the debtor's plan.

(11 U.S.C. §§ 1328(a), 523(a)(1)(B), (a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), (a)(8), (a)(9)).

In Chapter 13 cases, the debtor is entitled to a discharge upon completion of all payments under the plan and upon completion of the other requirements to obtain a Chapter 13 discharge. Creditors can object to confirmation of the repayment plan, but cannot object to the general discharge if the debtor has completed making the payments set out in the plan and has completed the other requirements to obtain a Chapter 13 discharge. There are some limited circumstances under which the debtor may request the Court to grant a "hardship discharge" even though the debtor has failed to complete all of the payments under the plan. Such a discharge is available only to a debtor whose failure to complete plan payments is due to circumstances beyond the debtor's control. The scope of a Chapter 13 hardship discharge is similar to that in a Chapter 7 case with regard to the types of debts that are exempted from the discharge. In a Chapter 13 case, if confirmation of a plan or the discharge is obtained through fraud, the Court can revoke the order of confirmation or discharge.

Dismissal

A motion to dismiss a case may be filed by the debtor or a party in interest for a variety of reasons pursuant to 11 U.S.C. 707(a), § 707(b), § 1208(b) and (c)(1), 1307(b) and (c) and Rules 1017(b) and 1112(b) and (e).

- Voluntary Dismissal of Debtor
- Failure To Pay Filings Fees
- Failure To Timely Amend Chapter 13 Plan
- Failure To Make Plan Payments
- Failure To Timely File Schedules, Statements and Chapter 13 Plan
- Failure To Appear for the 341 Meeting of Creditors
- Failure To Appear for the Confirmation Hearing
- Failure To Complete an Approved Debtor Financial Education Course;
- Failure To Submit Yearly Tax Returns and/or Financial Statements to the Chapter 13 Trustee.

However, the debtor is not entitled to an automatic dismissal of the Chapter 13 case if it has been converted to a Chapter 13 case after having been filed initially as a Chapter 7 case. A dismissal order ends the bankruptcy case. The dismissal order also removes the automatic stay, which prevented a creditor from collecting on a debt or taking other actions against the debtor.

VI. Filing Motions/ Asking the Court to Rule

To bring a matter before the judge for action or to ask the Court's permission for something, a motion or application must be filed with the Court, either in person in the Clerk's Office or sent through the mail. Sign the motion and provide a telephone number where you can be reached if the Court has questions. Copies of the motion must be served upon all the parties affected, for example, the trustee assigned to the case or the creditor involved in the disagreement. Refer to [Certificate of Service](#).

Court employees can not give advice about how to word a request, what information to include or who needs to be served with a copy. However, it may be helpful to look at similar motions that have been filed in other cases. Computer access to the Court's public records is available for free in both divisions.

VII. Important Things to Know

Bankruptcy Code and Rules

Bankruptcy cases are subject to federal laws contained in Title 11 of the United States Code (Bankruptcy Code). Procedural aspects of bankruptcy cases are governed by the Federal Rules of Bankruptcy Procedure (Bankruptcy Rules). The Bankruptcy Code and Rules may be accessed at public libraries and online at:

Local Rules

Additionally, the District of Maryland has [Local Rules](#) of practice. Individuals representing themselves are still responsible for knowing the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for this District. The Local Rules may be accessed online at www.mdb.uscourts.gov/pdf/LR_current.pdf. The following local rules are most likely to apply to individual debtors and should be reviewed and followed. However, this is not an all inclusive list and debtors are responsible for knowing any and all rules that may apply to their circumstances.

Rule #	Topic	Rule #	Topic
1002-1	Petition - General	4002-1	Current Address and Telephone
1006-1	Installment Payments	4003-1	Objection to Exemptions
1007-1	Mailing List or Matrix	4003-2	Lien Avoidance Under § 522 (f)
1007-3	Notice to Creditors Omitted	5001-2	Clerk - Office Locations/Hours
1009-1	Amendments to Lists/Schedules	5071-1	Motions for Postponement
1017-1	Dismissal	6070-1	Tax Refunds
2002-1	Notice to Creditors/Parties	9001-1	Definitions
2072-1	Notice to Other Courts W/Pending	9004-1	Form of Papers
3007-1	Claims - Objections	9009-1	Local Forms
3012-1	Motion to Avoid Lien - Residence	9010-1	Pro Se Parties
3012-2	Motion to Avoid Non-resident Lien	9010-2	Current Information
3015-1	Chapter 13 Plan	9013-1	Motions
3015-2	Chapter 13 - Confirmation	9013-3	Orders - Proposed
3070-1	Chapter 13 Special Procedures	9013-4	Certificate of Service
4001-1	Motion for Relief From Stay	9013-5	Responsibility for Proper Service
4001-2	Automatic Stay - Arrears	App A	Local Bankruptcy Forms
4001-4	Obtaining Credit / Refinancing	App B	Local District Court Rules

Additionally, individuals representing themselves should review Administrative Orders for changes to the Local Rules or for instruction on other local procedures or practices. The Administrative Orders can be found online at www.mdb.uscourts.gov under Reference Library, Court Procedures, Registry of Administrative Orders.

Certificate of Service

The debtor is responsible for serving copies of any pleadings they have filed with the Court on all relevant parties, such as the trustee and specific creditors. To demonstrate to the Court that they have met this requirement, each pleading filed must be accompanied by a Certificate of Service, which states which parties have been served a copy and the method used to serve them (first class mail, hand delivery, etc.). The debtor must sign the certificate of service as well. ([Link to form](#))

Penalty of Perjury Statement

Many papers must be filed under oath and under the penalty of perjury. Perjury means making a false statement under oath. The penalty for perjury is a fine of up to \$500,000 or imprisonment for up to five years or both (18 U.S.C. §§ 152 and 3571). The following declaration must be included and signed on the voluntary petition and on schedules, statements and declarations if they are filed separately: “I declare, under the penalty of perjury, that the information provided in this document is true and correct to the best of my knowledge, information and belief.” A notary is not needed.

Read and Keep All Notices

You should read all notices you receive very carefully, and make note of deadlines, hearing dates and times, and whether any response is required. Missing a deadline, failing to perform a required task, or failing to respond properly to an action or court order could result in the dismissal of the bankruptcy case, denial of a discharge, or the loss of property which might otherwise have been saved.

Save a copy of everything you send to the Court and keep all documents that are sent to you. In particular, keep your Discharge in a safe place (if one is issued in your case). You will need that documentation in the future to obtain credit, apply for a mortgage or car loan, etc.

Your Attendance is Required

- Debtors are required to attend the 341 Meeting of Creditors. The Court will send a notice containing the date, time and location of the meeting shortly after the new case is filed. Pay close attention to the location since these meetings are not held in the courtrooms and the location varies depending on where the debtor lives.
- Debtors are required to attend Confirmation hearings regarding Chapter 13 plans.
- Debtors are also required to attend a hearing prior to entering into a [Reaffirmation Agreement](#).
- It is advisable to attend any hearing on issues that affect you so you may be heard.
- If you cannot attend a hearing, please notify the court as soon as possible.

Guidelines for Appearing in Court

Many people are not accustomed to appearing in court and are not sure what to expect or what is expected of them. Here are basic guidelines to help you prepare for court appearances:

- Arrive on time. If court is not yet in session (if the judge is not sitting on the bench) then it is a good idea to check in with the courtroom deputy or one of the court employees sitting below the judge's bench.
- Bring with you any documentation that supports your side of the issue.
- You'll be asked to come forward when your case is called and you may also be asked to identify yourself for the record. Speak clearly toward the microphones.

- Stand up and go to the microphone when you speak to the judge.
- Young children can disrupt court proceedings and should not be brought to court unless it is absolutely necessary.

Fair Credit Reporting Act

The Court receives many telephone calls about bankruptcies unfairly appearing on consumer credit reports. The Court does not report bankruptcies to the credit bureaus and does not get involved in disputes regarding credit reports. The Fair Credit Reporting Act (15 U.S.C. § 1681) is the law that controls credit reporting. Credit reporting agencies may not report a bankruptcy case after 10 years from the date of entry of the order for relief. Other adverse credit information is generally removed after 7 years. For more information about the Fair Credit Reporting Act or information about disputing your credit report, visit the Federal Trade Commission's website, www.ftc.gov or contact them toll-free at 877-FTC-HELP (382-4357).

VIII. Glossary of Terms

Following are definitions of some terms used in bankruptcy cases:

ADVERSARY PROCEEDING - A lawsuit arising in or related to a bankruptcy case, that is started by filing a complaint in the Bankruptcy Court.

AFFIDAVIT - A written statement of facts, confirmed by the oath taken before an officer having authority to administer such oath (a notary public) or affirmation of the party making it. For example, an affidavit of service is a sworn statement of facts by the person who served the papers on the person named in the summons. [See also: **VERIFICATION**]

ANSWER - A defendant's response setting out the facts, denying or affirming (admitting) allegations of plaintiff's complaint. An involuntary petition against an alleged debtor filed by petitioning creditors also requires the alleged debtor to file an answer. This answer could be the filing of a voluntary petition by the debtor or a motion by the debtor contesting the involuntary petition.

APPEAL, NOTICE and CROSS APPEAL - An appeal is a request for review of a bankruptcy judge's judgment, decision, order or decree, in whole or part, by a higher court. In a cross appeal both parties to the judgment appeal the judge's decision. The notice of appeal is the first step to file an appeal. It must be filed with the clerk's office within (10) days of the entry of the judgment, order or decree on the Court's docket.

APPELLANT - The party who files an appeal to begin the appeal process.

APPELLEE - The defendant against whom an appeal has been taken. The appellee is the party who has no interest in objecting to the judge's judgment, decision or order.

APPLICATION - A formal request, usually in writing, to a court to ask the court to grant certain relief by signing a court order.

ASSET and NO ASSET CASES - An asset case is one in which money is likely to be recovered for distribution to unsecured creditors over and above the costs of administration and the debtor's exemptions. A no asset case is one in which there is no money to distribute to unsecured creditors.

AUTOMATIC STAY - An injunction that arises under federal law and automatically stops lawsuits, foreclosures, garnishments, and all collection activity against the debtor and debtor's property the moment a bankruptcy petition is filed. [See also: MOTION TO LIFT THE AUTOMATIC STAY] The automatic stay may be limited or not apply at all if a debtor has filed a prior bankruptcy case.

BANKRUPTCY PETITION - A formal request for protection under the federal bankruptcy laws. The filing of the bankruptcy petition commences the bankruptcy case. (Official form no. B1)

BAR DATE - Traditionally the last date set to take a specific action.

CAPTION - The caption of a pleading or other document filed with the Court is the heading which shows the names of the parties, name of the Court, the case number assigned by the Court and, if applicable, the adversary proceeding number (L.B.R. 4001-1).

CERTIFICATION OF DOCUMENT - The process by which a copy of a document or docket is signed and verified as a true copy by the court. This type of copy is usually needed to file a document in another court.

CHAPTER 7 CASE , or LIQUIDATION CASE - A voluntary or involuntary case in which the estate is being liquidated under the provisions of Chapter 7. A trustee is appointed by the United States Trustee.

CHAPTER 11 CASE, or REORGANIZATION CASE - A voluntary or involuntary case in which the debtor is seeking to reorganize and continue in business, or liquidate assets pursuant to a plan.

CHAPTER 12 CASE or FAMILY FARMER or FISHERMAN CASE - This chapter is similar to a Chapter 13 case; however, eligibility to file under this chapter is limited to family farmers or fishermen.

CHAPTER 13 CASE, or PLAN FOR ADJUSTMENTS OF DEBTS - Also known as a wage earner plan, a Chapter 13 is available to individuals with regular income from sources such as wages, Social Security or pension benefits, welfare and income from a business carried on as a sole proprietor. The only restriction concerns the amount of indebtedness owed by the debtor, i.e., secured indebtedness cannot exceed \$922,975 and unsecured indebtedness cannot exceed \$307,675 (11 U.S.C. § 109(e)). A trustee ("standing trustee") is automatically appointed in every Chapter 13 case.

CHAPTER 7 TRUSTEE - A person appointed in a Chapter 7 case by the United States Trustee to represent the interests of the bankruptcy estate and the unsecured creditors. The trustee's responsibilities include: presiding at the meeting of creditors (§341(a) meeting), reviewing the debtor's petition and schedules, liquidating the non-exempt property of the estate, and if applicable, making distributions to creditors. The trustee may also bring actions against third parties or the debtor to recover property of the bankruptcy estate.

CHAPTER 13 PLAN - A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time. When confirmed, the plan becomes binding on the debtor and his or her creditors unless modified under certain limited circumstances.

CHAPTER 13 TRUSTEE - A person appointed by the United States Trustee to administer a Chapter 13 case. The Chapter 13 trustee serves as a disbursing agent, collects payments from the debtor, makes distributions to the creditors, and makes recommendations to the court as to whether debtor's plan should be confirmed (11 U.S.C. § 1302).

CLAIM - A creditor's assertion of a right to payment from a debtor or the debtor's property.

COMPLAINT - The first document filed in an adversary proceeding that notifies the court and the defendant of the relief sought by the plaintiff against the defendant and the grounds for that claim.

CONFIRMATION, CHAPTER 13 - Approval of a plan by a bankruptcy judge for a debtor to pay creditors, provided that specific criteria are met (for a Chapter 13 plan, the confirmation criteria are listed in 11 U.S.C. § 1325(a)). The acceptance of a plan is determined by the debtor's budget provided to the Court, list of assets, and ability to make monthly plan payments. Regular monthly income from all sources must be disclosed including salary, commissions, investment income, tax refunds, public benefits, and unemployment compensation. Any change in your income or expenses must be disclosed to the Court. Modification to the plan after the confirmation hearing may be at the request of the debtor, trustee or an unsecured creditor (11 U.S.C. § 1329(a)).

CONTINGENT CLAIM - A claim that may be owed by the debtor under certain circumstances, for example, where the debtor is a cosigner on another person's loan and that person fails to pay.

CREDITOR - A person (or business) to whom the debtor owes money or that claims to be owed money by the debtor.

CREDITOR MATRIX - A separate list of all creditors and their representatives with their full addresses. The Court uses this list to mail notices to all your creditors. Ask the Clerk's Office for specifications on how to file this list on a computer disk.

CREDITORS' MEETING - The Bankruptcy Code gives all creditors of a debtor's estate the opportunity to participate in the administration of the case. The debtor is required to be in attendance at the meeting of creditors (known as a § 341(a) meeting) to give the trustee and creditors an opportunity to examine the debtor under oath concerning the debtor's property and financial affairs.

DEBTOR - A person who has filed a petition for relief under the bankruptcy laws.

DEFENDANT - An individual (or business) against whom an adversary proceeding or lawsuit is filed.

DISCHARGE - A release of a debtor from personal liability for certain dischargeable debts. It prevents the creditors owed those debts from taking any action against the debtor to collect the debts.

DISCHARGEABILITY - Refers to a process or finding on whether a particular debt is not eligible for discharge.

DISMISSAL - A dismissal is an order or judgment terminating a motion, adversary proceeding or bankruptcy case.

DISMISSAL WITH PREJUDICE - A dismissal of a case with prejudice prohibits the party from bringing the same case, claim or cause of action again.

EQUITY - The value of a debtor's interest in property that remains after liens and other creditors' interests are considered. (For example: If a house valued at \$60,000 is subject to a \$40,000 mortgage, there is \$20,000 in equity.)

ESTATE - All accumulated assets or equitable interests of the debtor on the date the case is filed. A list of assets must be filed even if some are claimed as exempt property. Items of property include:

- * A house, cooperative apartment, condominium, vacation time-share,
- * Cash, savings account, checking account, credit union account;
- * Stocks, bonds, savings bonds;
- * Tax refunds;
- * Security deposits;
- * Life insurance, if you are the beneficiary on a life insurance policy and the insured dies within six months after you filed for bankruptcy, any inheritance you receive will be included as an asset;
- * A pension, profit sharing plan, annuity, IRA or other type of retirement plan;
- * Furniture and appliances, television sets, radios, stereo systems and components, computers, VCRs;
- * Books, art, collectibles such as baseball cards, stamps or coins;
- * Clothing, jewelry and tools;
- * A car, truck, motorcycle; and
- * Personal injury or other potential claims you may have against others whether filed or not filed.

EXECUTORY CONTRACT OR LEASE - Contracts or leases under which both parties to the agreement have duties remaining to be performed or have not been fully completed. (If a contract or lease is executory, a debtor may continue to fulfill the terms of the contract or lease ("assume" it) or cancel the contract or lease ("reject" it).) Examples of an executory contract are: a lease for a residence, car or equipment, or an employment agreement, home improvement contract or service contract or for delivery of goods in the future.

EXEMPT PROPERTY - Property or value in property that a debtor is allowed to keep pursuant to the Bankruptcy Code or applicable state law free from the claims of creditors who do not have liens. In addition to the exemptions allowed by the Bankruptcy Code or applicable state law, there are specific exemptions in federal law that protect certain types of property such as Social Security benefits, ERISA pensions and Veteran's Administration benefits. Your exemption in certain property may be limited to a specified dollar amount (MD [Annotated Code, Courts and Judicial Proceedings §11-504](#)). Some examples of property a debtor may claim as exempt are:

- * A house, cooperative apartment, condominium, vacation time-share, cemetery plot;
- * Cash, savings account, checking account, credit union account;
- * Stocks, bonds, savings bonds;
- * Tax refunds;
- * Security deposits;
- * Life insurance, if you are the beneficiary on a life insurance policy and the insured dies within six months after you filed for bankruptcy, any inheritance you receive will be included as an asset;
- * A pension, profit sharing plan, annuity, IRA or other type of retirement plan;
- * Furniture and appliances, television sets, radios, stereo systems and components, computers, VCRs;
- * Books, art, collectibles such as baseball cards, stamps or coins;
- * Clothing, jewelry and tools;
- * Equity in an automobile or house;
- * A car, truck, motorcycle; and
- * Personal injury or other potential lawsuits you may have against others whether filed or not filed.

FRAUDULENT CONVEYANCE - A transfer of a debtor's property either made with intent to defraud or for which the debtor receives less than the transferred property's value.

FRESH START - The characterization of a debtor's status after bankruptcy, i.e., free of most debts.

IN FORMA PAUPERIS - Describes permission given by a judge to a debtor, who meets certain income criteria, to proceed without liability for court fees or costs.

INSIDER - A relative of an individual debtor or a person with a close relationship to the debtor.

INVOLUNTARY PETITION - A Chapter 7 or 11 bankruptcy petition generally filed by three or more creditors holding at least \$12,300 in unsecured claims against a debtor, claiming that the debtor is not paying its bills as they become due and that the debtor should be subject to bankruptcy proceedings (11 U.S.C. § 303).

JOINT PETITION - One bankruptcy petition filed by a husband and wife together. Each debtor in a joint case (both husband and wife) can claim exemptions under the bankruptcy laws.

JUDGE OF THE UNITED STATES BANKRUPTCY COURT or **BANKRUPTCY JUDGE** - The official title of the judicial officer presiding over a bankruptcy case. The proper reference to a

judge is "The Honorable ..." References to the court also refer to the judge. Bankruptcy judges are appointed to fourteen year terms.

JURISDICTION - Jurisdiction is the legal authority to hear and decide a case. The United States District Court has original and exclusive jurisdiction over all cases under the Bankruptcy Code.

LIEN - A charge upon specific property that secures payment of a debt or performance of an obligation.

LIQUIDATE - To convert assets into cash.

LIQUIDATED CLAIM - A creditor's claim for a fixed amount of money.

MOTION - A motion is an application for relief or request for an order of the court presented to the Court. Certain motions have response deadlines by which another party shall respond or object to the relief requested in the motion. The person making the motion should provide a memorandum of law in support of the motion or include a statement that no separate memorandum of law is being submitted. Motions may be decided by a judge without a hearing.

MOTION TO LIFT THE AUTOMATIC STAY - A request by a creditor to allow the creditor to take an action against a debtor or the debtor's property that would otherwise be prohibited by the automatic stay, for example, start or continue a lawsuit in state court or foreclose a mortgage.

NONDISCHARGEABLE DEBT - A debt that will not be discharged.. 11 U.S.C. §§ 523(a) and 1328(a).

OBJECTION TO DISCHARGE - A trustee's or creditor's objection to the debtor's being released from personal liability for all debts brought by an adversary proceeding under 11 U.S.C. § 727.

OBJECTION TO EXEMPTIONS - A trustee's or creditor's objection to a debtor's attempt to claim certain property as exempt.

ORDER - An order is a judicial decree resolving an issue or question raised before the court that grants relief, or directs a party to perform an act or to refrain from taking action.

ORDER FOR RELIEF - A court order for relief is an order ("injunction") that stops all proceedings against the debtor and debtor's property. The order for relief or automatic stay occurs is effective immediately upon filing a voluntary petition.

PARTY IN INTEREST - A party who is actually and substantially interested in the subject matter, as distinguished from one who has only a nominal or technical interest in it.

PETITION - The petition is the paper filed with the Clerk of the Bankruptcy Court to start a case. The petition may be filed by the debtor (voluntary case) or by creditors against the debtor (involuntary case).

PLAN - A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time. When confirmed, the plan is a contract between the debtors and the creditors.

PLAINTIFF - A person or business that files an adversary proceeding or lawsuit with the court.

POST-PETITION TRANSFER - A transfer of a debtor's property made after the filing of a bankruptcy petition.

PREFERENCE - Generally, certain payments or transfers of a debtor's property to a creditor within ninety (90) days before the filing of a bankruptcy case (or within one year before the filing of the petition if the creditor was an "insider") which enables the creditor to receive more than it otherwise would have received in a hypothetical Chapter 7 case. The trustee may take action to nullify or avoid certain preferences and obtain a court order requiring the creditor to return the property or money (11 U.S.C. § 547).

PRIORITY CLAIM - A claim that is entitled to be paid before general unsecured claims. Examples include certain administrative expenses and taxes (11 U.S.C. § 507).

PROOF OF CLAIM - A written statement setting out the amount and reason a debtor owes a creditor money. (Official Form 10 is used for this purpose.)

PRO SE - A person appearing without representation by an attorney for himself; in his own behalf; in person.

REAFFIRMATION AGREEMENT - An agreement between a debtor and a creditor in which the debtor agrees to pay all or a portion of a debt even though the debt would have been discharged otherwise (11 U.S.C. § 524(c)).

SECURED CREDITOR - An individual or business holding a claim against the debtor that is secured by a lien on property of the estate (e.g. a bank holding a mortgage on a house).

SECURED DEBT - A debt secured by a lien on property of the estate (e.g. a mortgage on a house.)

SETOFF - The difference between the amount a creditor owes a debtor and the debtor owes the creditor at the time of filing of the case. If the amount owed to the creditor is greater, the difference may be the amount claimed by the creditor if an agreement is made between the debtor and creditor to a claim in the reduced amount.

SCHEDULES - Lists submitted by the debtor with the petition (or within 15 days of filing the petition) showing the debtor's assets, liabilities, and other financial information.

STANDING TRUSTEE - See **CHAPTER 13 TRUSTEE**

STATEMENT OF FINANCIAL AFFAIRS - A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, etc. The kinds of information which must be provided are: Employment, occupation and income for the last two years.

Partnerships or businesses in which you have been involved within the past six years. Payments made to creditors within ninety (90) days before filing a bankruptcy petition. Repossessions, transfers or foreclosures occurring within one year before filing a bankruptcy petition including transfers or gifts to relatives. Property the debtor is holding for someone or someone is holding for the debtor. Books and records of financial affairs and their location. Bank, credit union, and brokerages accounts in the debtor's name closed within one year before filing a bankruptcy petition. Payments to, or payment agreements with, attorneys or any budget or credit counseling service. Casualty losses or gambling losses within the last year. Safe deposit boxes. Prior addresses within the last two years.

STATEMENT OF INTENTION - A declaration made by a Chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate, such as a home (if securing a mortgage) or car. You must disclose whether you intend to surrender the asset or keep it. To keep possession of an asset, you must continue to pay for it.

You may choose to "redeem" the property, which means that you can arrange to pay the creditor the full current or "market" value of the property in one lump sum, even if the debt is considerably higher.

You may "reaffirm" the debt, which means you agree to continue to make payments until the debt has been paid in full. Either option must be in writing, and under certain circumstances may require approval by the bankruptcy judge.

STIPULATION - A stipulation is a voluntary agreement between opposing parties.

SUBSTANTIAL ABUSE - The characterization of a bankruptcy case filed by an individual whose debts are primarily consumer debts where the Court finds that the granting of relief would be an abuse of Chapter 7. A bankruptcy petition should include a detailed list of current sources of income and regular expenses. The trustee assigned to the bankruptcy case may decide that the budget reflects that payment to creditors can be made by the debtor(s) under a plan. If such is the case, the bankruptcy case may be dismissed.

SUMMONS - An official court document informing the party served that an action has been filed against them in the court where the summons originated, and that the party is required to appear, on the date indicated on the summons, and answer the complaint in such action.

341(a) MEETING - A meeting of creditors at which the debtor is questioned under oath by creditors, a trustee, or the United States trustee about his/her financial affairs. The debtor's attendance at the 341 meeting of creditors is mandatory.

TRANSCRIPT - A written record prepared by the court reporter of the proceedings that took place in court.

TRANSFER - Any mode or means by which, either voluntarily or involuntarily, a debtor disposes of, or parts with, property.

TRUSTEE - In cases under Chapter 7, the trustee is a person elected by creditors or appointed by the United States trustee to administer the estate of the debtor. [See also: **STANDING TRUSTEE**]

UNITED STATES TRUSTEE - An officer of the Department of Justice who supervises trustees and the administration of bankruptcy estates. The U.S. Trustee appoints trustees, monitors plans and disclosure statements, creditors' committees, applications for compensation, and the progress of bankruptcy cases, and performs other statutory duties (28 U.S.C. § 586).

UNDERSECURED CLAIM - A debt secured by property that is worth less than the amount of the debt.

UNLIQUIDATED CLAIM - A claim for which a specific dollar amount has not been determined.

UNSCHEDULED DEBT - A debt that should have been listed by a debtor in the schedules filed with the Court but was not. If the debtor fails to list a debt on the bankruptcy petition, it might not be discharged and the debtor may be obligated to pay it unless the creditor actually knew there was a bankruptcy proceeding in time to file a claim in an asset case.

UNSECURED CLAIM - A claim with respect to a debt, the payment of which is not backed by the debtor's collateral or a lien on property of the debtor.

UNSECURED DEBT - Debt obligations that are not backed by a security agreement or a lien on property of the debtor.

VACATE - To cancel, annul, or render of no effect. If a judgment or other is vacated, it is as if the order or judgment were never entered.

VENUE - (1) The proper locality of a legal proceeding. (2) The county or geographical area in which a court may hear and determine a case. (3) The place where a bankruptcy case or proceeding may be filed.

VERIFICATION - Confirmation of the correctness, truth, or authenticity of a complaint, statement, or document. Federal Rule of Bankruptcy Procedure 1008 requires that bankruptcy petitions, lists, schedules, statements, and amendments have to be certified as provided in 28 U.S.C. § 1746.

VOLUNTARY CASE - A case under the Bankruptcy Code in which the debtor has filed a voluntary petition either to reorganize the debtor's finances or to liquidate the debtor's assets.

VOLUNTARY PETITION - See **PETITION**.

CERTIFICATE OF SERVICE

I certify that on the _____ day of _____, 20____, copies of the pleading _____ (eg. motion to avoid lien) were served upon the party (parties) whose name(s) and address(es) are listed below.

(1)

(2)

(3)

(4)

(5)

(6)

Signature

Print Name

NOTE: Service must be made pursuant to Federal Bankruptcy Rule 9013-4

Appendix A: Excerpts from the MD Annotated Code,
Courts and Judicial Proceedings

Updated June 29, 2006

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§ 11-504. Exemptions from execution.

(a) (1) In this section the following terms have the meanings indicated.

(2) "Value" means fair market value as of the date upon which the execution or other judicial process becomes effective against the **property** of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are **exempt** from execution on a judgment:

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

(2) Money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not **exempt** if the judgment is for necessities contracted for after the disability is incurred.

(3) Professionally prescribed health aids for the debtor or any dependent of the debtor.

(4) The debtor's interest, not to exceed \$1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for the personal, family, or household use of the debtor or any dependent of the debtor.

(5) Cash or **property** of any kind equivalent in value to \$6,000 is **exempt**, if within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects to **exempt** cash or selected items of **property** in an amount not to exceed a cumulative value of \$6,000.

(c) (1) In order to determine whether the **property** listed in subsection (b)(4) and (5) of this section is subject to execution, the sheriff shall appraise the **property** at the time of levy. The sheriff shall return the appraisal with the writ.

(2) An appraisal made by the sheriff under this subsection is subject to review by the court on motion of the debtor.

(3) Procedures will be as prescribed by rules issued by the Court of Appeals.

(d) The debtor may not waive, by cognovit note or otherwise, the provisions of subsections (b) and (h) of this section.

(e) The exemptions in this section do not apply to wage attachments.

(f) In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled "Bankruptcy", any individual debtor domiciled in this State may **exempt** the debtor's aggregate interest, not to exceed \$5,000 in value, in real **property** or personal **property**.

(g) In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522 (d) of the federal Bankruptcy Code.

(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this section and any other provisions of law, any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403 (b), § 408, § 408A, § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as amended, shall be **exempt** from any and all claims of the creditors of the beneficiary or participant, other than claims by the Department of Health and Mental Hygiene.

(2) Paragraph (1) of this subsection does not apply to:

(i) An alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

(ii) A retirement plan, qualified under § 401(a) of the United States Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement account qualified under § 408 of the United States Internal Revenue Code of 1986, as amended; or

(iii) The assets of a bankruptcy case filed before January 1, 1988.

(3) The interest of an alternate payee in a plan described in subsection (h)(1) of this section shall be **exempt** from any and all claims of any creditor of the alternate payee, except claims by the Department of Health and Mental Hygiene.

(4) If a contribution to a retirement plan described under paragraph (1) of this subsection exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed under the applicable provisions of the United States Internal Revenue Code of 1986, as amended, the portion of that contribution that exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed, and any accrued earnings on such a portion, are not **exempt** under paragraph (1) of this subsection.

[An. Code 1957, art. 83, §§ 8, 8A, 9, 11, 13; 1973, 1st Sp. Sess., ch. 2, § 1; 1974, ch. 316; 1975, ch. 430; 1976, ch. 383, § 1; 1977, ch. 356; 1980, ch. 546; 1981, ch. 765; 1982, ch. 703; 1983, chs. 175, 554; 1984, ch. 255; 1988, ch. 613; 1989, ch. 549; 1998, ch. 375; 2002, ch. 19, § 10; 2003, ch. 21, § 1; 2004, ch. 463.]

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